

TOWN OF NEW WINDSOR

ZONING BOARD

November 8, 2010

MEMBERS PRESENT: JAMES DITTBRENNER, ACTING CHAIRMAN
PATRICK TORPEY
FRANCIS BEDETTI

ALSO PRESENT: ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

NICOLE JULIAN
PLANNING BOARD SECRETARY

ABSENT: MICHAEL KANE
RICHARD HAMEL

REGULAR MEETING:

MR. DITTBRENNER: Good evening, I'd like to call to order the Town of New Windsor Zoning Board of Appeals regular session for November 8, 2010.

PRELIMINARY MEETINGS:

DANIEL ESPINOZA (10-28)

MR. DITTBRENNER: This evening our first preliminary hearing is for Daniel Espinoza request for a variance for a side and rear yard setback of five feet each for a proposed swimming pool located at 309 Molly Pitcher Drive in an R-3 zone.

Mr. Daniel Espinoza appeared before the board for this proposal.

MR. DITTBRENNER: Give your name and address.

MR. ESPINOZA: Daniel Espinoza, 3003 Molly Pitcher Drive in New Windsor, New York 12553.

MR. DITTBRENNER: The way, for everyone's information the way the Town of New Windsor Zoning Board of Appeals operates is it's a two part session. The first part is treated as a preliminary which gives us an opportunity to hear what your requests are, ask for any additional information that would be then presented to us at the public hearing. In doing this, this gives you an opportunity to satisfy any of our questions or concerns by the time it goes to public hearing as opposed to other municipalities where they operate just one session, if you come in, you can't answer all the questions, you take the likelihood of not having your request approved. So at this time, we'd just like to hear what you're applying, what your request is for and then we'll open it up to the board for any questions.

MR. ESPINOZA: Just a variance of five feet from the fence line so I can have a pool for my kids to swim in.

MR. DITTBRENNER: So this is a new pool or this is an existing pool?

MR. ESPINOZA: New pool.

MR. TORPEY: What happened to the old one?

MR. ESPINOZA: I never had one.

MR. TORPEY: That's a pretty good green circle there.

MR. ESPINOZA: That was an inflatable thing.

MR. TORPEY: Looks like the pool was there.

MR. ESPINOZA: No, it's an inflatable.

MR. TORPEY: That's pretty good.

MR. DITTBRENNER: First obvious question is is there any reason why you can't locate the pool on the property in the location that conforms with the zoning requirements?

MR. ESPINOZA: The pool is huge and I need the extra space.

MR. TORPEY: Inground?

MR. ESPINOZA: No, aboveground.

MR. DITTBRENNER: How large is the pool?

MR. ESPINOZA: It's a 24 foot circle, I mean round.

MR. DITTBRENNER: Basic questions. With the installation of the pool, will this create any ponding or collection of water or divert the flow of water drainage that you are aware of?

MR. ESPINOZA: No, Your Honor.

MR. DITTBRENNER: You don't have to call me Your Honor.

MR. ESPINOZA: Okay.

MR. DITTBRENNER: With the installation of the pool will it be built on top of or interfere with any easements, right-of-ways including but not limited to water, sewer or electrical easements?

MR. ESPINOZA: No.

MR. DITTBRENNER: Are you aware of any complaints either formal or informal by any of your neighbors as it relates to the installation of the pool?

MR. ESPINOZA: I haven't heard any complaints, Your Honor, I mean.

MR. DITTBRENNER: Would the size of the pool be similar in size and nature to other pools in the neighborhood?

MR. ESPINOZA: Yes.

MR. DITTBRENNER: Any question from the board?

MR. TORPEY: No.

MR. BEDETTI: I'm assuming that the pool is in your back yard, is that correct?

MR. ESPINOZA: The pool right now as we speak is in my garage.

MR. BEDETTI: The proposed pool installation will be in the rear of the house?

MR. ESPINOZA: Yes.

MR. BEDETTI: The reason I'm asking is because on the writeup it says swimming pool shall not be located in any required front yard, you don't live on a corner, you're not proposing putting it in the front yard?

MR. ESPINOZA: No.

MR. TORPEY: I saw that, I was curious.

MS. JULIAN: I asked the building department why it was worded that way and that's how the code states it.

MR. BEDETTI: But that's not a violation, he's not violating that part of the code?

MS. JULIAN: No, not at all.

MR. BEDETTI: There's no way for us to know that unless you ask.

MS. JULIAN: No, I questioned it too.

MR. TORPEY: We're basically going on the property line?

MS. JULIAN: Yes.

MR. BEDETTI: So you could conceivably meet the code if you got a smaller pool?

MR. ESPINOZA: If I would have bought a smaller pool but I already purchased it.

MR. TORPEY: You can put this in your front yard, right?

MR. ESPINOZA: Why would I do that?

MR. BEDETTI: I have no other questions.

MR. DITTBRENNER: I would only ask that when you come back to the, if it's favorably approved, forwarded for a public hearing, I would just ask that you give yourself some type of a rendering of the property layout where the pool is going to be located.

MR. ESPINOZA: All right.

MS. JULIAN: I'll show you.

MR. DITTBRENNER: If there's no other questions from the board, I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a public hearing for Daniel Espinoza for a rear yard setback of five feet for a proposed swimming pool to be located at 3009 Molly Pitcher Drive in an R-3 zone.

MR. TORPEY: I'll second that motion.

ROLL CALL

MR. BEDETTI AYE
MR. TORPEY AYE
MR. DITTBRENNER AYE

JAMES HOLLENBECK (10-30)

MR. DITTBRENNER: Our second preliminary hearing is for James Hollenbeck requesting a variance for a proposed 24 by 26-foot detached garage that would be two feet from the property line. Variance is requested of 8 feet and it's requested at 12 Woodlawn Avenue

MR. HOLLENBECK: James Hollenbeck, 12 Woodlawn Avenue, New Windsor, New York.

MR. DITTBRENNER: Tell us what you're looking to do and why.

MR. HOLLENBECK: Left side of my property end of the driveway a 24 by 26 detached garage. Roughly, there are ten houses on my street, there are three without garages, I happen to own one of them so I feel it will fit in perfectly.

MS. JULIAN: Can I ask a question?

MR. DITTBRENNER: Sure.

MS. JULIAN: Did you want to move it or did you decide?

MR. HOLLENBECK: No, we're good.

MR. DITTBRENNER: Couple basic questions again with the building of this detached garage, will there be the removal of any trees or substantial vegetation?

MR. HOLLENBECK: No.

MR. DITTBRENNER: With the building of this detached garage, will this interfere with any easements, right-of-ways including but not limited to water, sewer or electrical easements?

MR. HOLLENBECK: No.

MR. DITTBRENNER: With the building of this detached garage, will it create any ponding or collection of water or divert the flow of water for drainage

purposes?

MR. HOLLENBECK: No.

MR. DITTBRENNER: As you already stated, I will ask it again but the size and the nature of the garage that you're proposing is similar in size and nature to other garages in the neighborhood?

MR. HOLLENBECK: Yes.

MR. DITTBRENNER: Have there been any formal or informal complaints about the proposed building of this garage by your neighbors or surrounding homeowners?

MR. HOLLENBECK: No, I have actually informed most of them what I was doing and answered most of their questions and they seemed to be fine with it.

MR. DITTBRENNER: Is there any reason why this could not be built in a location that would comply with the zoning requirements?

MR. HOLLENBECK: Left side or the right side of the house and the left side happens to be where the driveway is.

MR. DITTBRENNER: Okay, any questions from the board?

MR. BEDETTI: Is this a single car garage or two car?

MR. HOLLENBECK: Two car garage.

MR. BEDETTI: You could conceivably make it a single car garage, make a smaller garage to comply with the law?

MR. HOLLENBECK: I could.

MR. BEDETTI: Now, the closest house to your proposed garage immediately is that their garage right next to you?

MR. HOLLENBECK: Right, it would be parallel to their garage.

MR. BEDETTI: All right, cause I couldn't tell from the picture which section of their house.

MR. HOLLENBECK: It was a three car garage but they made half of it as an office and removed one door and it's going to be identical to the gentleman across the street from me who was a two car garage.

MR. DITTBRENNER: But the one that you are directly next to that you will be building is two car?

MR. HOLLENBECK: They converted the one side to like an office.

MR. DITTBRENNER: Still the same size?

MR. HOLLENBECK: Right, roughly, I think theirs is 24 by 24.

MR. DITTBRENNER: Any other questions?

MR. BEDETTI: Are they two feet from their property?

MR. HOLLENBECK: Yeah, they're right on the money two feet from the property line.

MR. BEDETTI: So it's basically pretty similar to what the guy next door has.

MR. HOLLENBECK: Right, just about lined up with their garage.

MR. BEDETTI: No other questions.

MR. DITTBRENNER: Hearing no other questions, I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a public hearing for James Hollenbeck for a proposed 24 by 26 detached garage that will be two feet from the property line and will require an eight foot variance at 12 Woodlawn Avenue in an R-4 zone.

MR. TORPEY: I will second that.

ROLL CALL

MR. BEDETTI AYE

MR. TORPEY AYE

MR. DITTBRENNER AYE

MS. JULIAN: This sheet will give you how many envelopes, how much you owe and what you will need.

MR. HOLLENBECK: Thank you. Good night.

MICHAEL GEMEI (10-31)

MR. DITTBRENNER: Next preliminary meeting is the application of Michael Gemei, excuse me if I didn't pronounce it properly. Request for an existing deck with attached three season room which does not meet the minimum rear yard setback of 50 feet. A variance of 20 feet is requested.

Mr. Frank Gerbes of RE/MAX Benchmark Realty Group and Mr. Michael Gemei appeared before the board for this proposal.

MR. GEMEI: It's three feet, he only has 27 feet from the back property line.

MR. DITTBRENNER: State your name and address.

MR. GEMEI: Yes, Michael Gemei and it's 58 Silver Springs Road, New Windsor.

MR. GERBES: They bought a sheriff's property in Goshen that had a deck and a three season room, they own the property now, they are trying to sell it, we have a buyer but no C.O. on this so we're trying to get it ready.

MR. DITTBRENNER: How old is this existing?

MR. GERBES: We don't know. I had Frank Lisi from the building department go over there and tell us what we need to do. We're going to get an engineer to tell us it's fundamentally sound, they met code, they put the lattice work on and they did the backdrop for the stairs to meet that part of the code but they have to get an engineer's report.

MR. DITTBRENNER: Some basic questions we have to ask. Are you aware of the removal of any trees or substantial vegetation with the addition?

MR. GERBES: It's there already so no.

MR. DITTBRENNER: Are you aware of, if this addition

was built on top of or interferes with any easements or right-of-ways including but not limited to water, sewer, electrical?

MR. GEMEI: No.

MR. DITTBRENNER: Are you aware of the creation of any ponding or collection of water which will divert the flow of water for drainage purposes as a result of this addition?

MR. GEMEI: No.

MR. DITTBRENNER: Have there been any complaints formally or informally that you are aware of as a result of this?

MR. GEMEI: No, sir.

MR. DITTBRENNER: And would you say that the addition is similar in size and nature to other houses within the neighborhood?

MR. GEMEI: Yes.

MR. DITTBRENNER: Any questions from the board?

MR. BEDETTI: On the side that you require the variance, what's immediately adjacent to that? Is there another house? Is there on the short side on the side this is to the rear so what's immediately to the rear?

MR. GERBES: There's trees and then there's another back yard behind that.

MR. GEMEI: And there's a fence also back there and then beyond that is someone's else's back yard, I believe.

MR. DITTBRENNER: Any other questions?

MR. BEDETTI: What type of fence is it? Is it a chain link fence?

MR. GERBES: It's the old, it's, I was going to say chicken wire, you remember the square boxes with the--

MR. TORPEY: Chain link.

MR. GERBES: I don't think it's that chain link, it's even--

MR. BEDETTI: Chicken wire fence.

MR. GERBES: Yeah.

MR. BEDETTI: At least I have an idea, I mean, it's not a fence where it blocks the view, you know, where you're separating?

MR. GEMEI: No.

MR. GERBES: More the trees block the view.

MR. BEDETTI: You have a natural fence.

MR. GEMEI: Right.

MR. BEDETTI: Now I don't have any other questions, pretty straightforward.

MR. DITTBRENNER: Hearing nothing else, I'll accept a motion.

MR. BEDETTI: I will make a motion that we schedule a public hearing for Michael Gemei requesting a variance of 23 feet, a variance of 23 feet measured against the 50 foot requirement rear yard setback at Silver Springs Road in an R-4 district at 58 Silver Springs Road R-4 zone.

MR. TORPEY: Second it.

ROLL CALL

MR. BEDETTI AYE

MR. TORPEY AYE

MR. DITTBRENNER AYE

PUBLIC HEARINGS:

ROBERT SILVERSTEIN (10-27)

MR. DITTBRENNER: Tonight's public hearing is the application of Robert Silverstein request to convert an existing single-family house into a two-family house located at 634 Little Britain Road in a PI zone.

MR. SILVERSTEIN: Robert Silverstein appeared before the board for this proposal.

MR. SILVERSTEIN: Robert Silverstein, 634 Little Britain Road, New Windsor, New York.

MR. DITTBRENNER: As we only have three members present and it requires all three of these members to approve this request, we will offer to allow you to present the application, any witnesses you have but we'll also allow you the option to table approval vote until we have a full board present because if at this stage if any one of the three individuals that are present chooses not to support this request, it will be denied and there's no further action that can be taken. So without a full board, we do have a quorum of three members present but all three would need to vote favorably for the application to be approved. So that's one thing I wanted to disclose to you up front. And secondly, at the preliminary presentation, we had talked about whether you were really going to go for an interpretation or a full use variance because either direction is a rather different presentation and that's something different for us to consider so we would need to know up front whether you're requesting an interpretation or if you're going for a full use variance.

MR. SILVERSTEIN: The interpretation which I changed with Nicole.

MS. JULIAN: And I just want to show you I did put it in the mailings, the notice.

MR. SILVERSTEIN: I noticed it wasn't correct.

MS. JULIAN: Yeah, it wasn't on that, I wanted to leave that the same until you came to the board.

MR. DITTBRENNER: If you'd like to proceed, you can same as the preliminary just tell us what you're looking to accomplish.

MR. SILVERSTEIN: My intention is it's already it was previously at one time a two-family house with two kitchens in it. I wanted to legalize now the two kitchens because there was no C.O. required because the house was built in '53 and the zoning requirements weren't until '66. Now, a C.O. would be required, I want to keep the two kitchens, my intention is having actually either family or a nanny live there and them having their own facilities for themselves and that's what we discussed earlier.

MR. TORPEY: So we're going to go through with this?

MR. KRIEGER: As an interpretation.

MR. TORPEY: So you don't want to wait for a full board?

MR. SILVERSTEIN: No.

MR. DITTBRENNER: Okay, currently are all the services single, gas and electric meter?

MR. SILVERSTEIN: It is, there's no separate utilities for anything, even the T.V. and even the phones, electric is one, I will be paying for it all one way or another.

MR. TORPEY: You do.

MR. SILVERSTEIN: Yes, I own the house.

MR. BEDETTI: Did you, you said a nanny and I heard you say something about family, your family?

MR. SILVERSTEIN: Or my wife's, my parents are actually dead.

MR. BEDETTI: Well, family could be brothers, sisters, siblings.

MR. SILVERSTEIN: Yeah, yeah or a nanny which wouldn't be family.

MR. BEDETTI: Well, that's okay.

MR. SILVERSTEIN: So either one.

MR. BEDETTI: Family and a--

MR. SILVERSTEIN: Family maybe future down the road nanny as soon as possible.

MR. TORPEY: But they'll always be one meter?

MR. SILVERSTEIN: One meter, one electric, one gas, no separation of anything or utilities.

MR. DITTBRENNER: Basically a few silly questions again, you're not aware of the removal of any trees or substantial vegetation? This is pre-existing?

MR. SILVERSTEIN: No, there's no removal, I have actually planted quite a bit.

MR. DITTBRENNER: You're not aware of this interfering with any easements, right-of-way including but not limited to water, sewer, electrical?

MR. SILVERSTEIN: None.

MR. DITTBRENNER: There's no ponding or collection of water to divert the water flow for drainage?

MR. SILVERSTEIN: None.

MR. DITTBRENNER: And does this have a separate entrance to this area?

MR. SILVERSTEIN: Yeah, there's five entrances to the house, there's two of them.

MR. DITTBRENNER: There's an entrance from the common living space?

MR. SILVERSTEIN: Oh yeah, as a matter of fact, they can walk right into our living space right up the stairs, walk right in and there's no locks on the doors either, there's no keyed locks or anything just normal standard bedroom door lock kind of thing presently.

MR. DITTBRENNER: With this additional kitchen, the appearance of the house is similar in size and nature to other houses in the neighborhood?

MR. SILVERSTEIN: Well, it's hard to say other houses in the neighborhood since there's only one across the street pretty much.

MR. BEDETTI: It's an easy comparison.

MR. KRIEGER: It's a mixed residential and commercial neighborhood?

MR. SILVERSTEIN: Yeah.

MR. TORPEY: It's like the nicest house on the street.

MR. DITTBRENNER: I actually went to drive by it and see where it was cause I couldn't figure it out.

MR. SILVERSTEIN: Everyone says they wanted to buy it actually I'm like the sixth owner.

MR. TORPEY: They wouldn't come down on the price at all.

MR. SILVERSTEIN: I ended up buying it for 340 and I gutted and renovated the whole thing.

MR. TORPEY: It's a nice house.

MR. SILVERSTEIN: Yeah, it's actually almost 4,000 square feet.

MR. TORPEY: Maintenance free.

MR. SILVERSTEIN: I wouldn't say maintenance free.

MR. DITTBRENNER: Any other questions from the board?

MR. TORPEY: No.

MR. BEDETTI: I don't have any other questions.

MR. KRIEGER: It's a single family house, it's always been a single family house and will always remain a single family house?

MR. SILVERSTEIN: Yes.

MR. KRIEGER: If you market it you'll market it as a single family house?

MR. SILVERSTEIN: Yes, absolutely.

MR. DITTBRENNER: At this point, I will open it up to the public, if there's anybody here to speak on his behalf or against him, please step forward. Seeing no one in the audience, we'll close the public hearing section and ask Nicole how many mailings went out.

MS. JULIAN: On the 26th day of October, 2010, I compared ten addressed envelopes with no written response.

MR. DITTBRENNER: Okay, anything else? Hearing nothing else, I'll accept a motion.

MR. BEDETTI: I will make a motion that we grant Robert Silverstein a request for interpretation for a single family house with two kitchens located at 634 Little Britain Road in a PI zone, a single family house which will not be marketed as a two-family house nor rented as a two-family house at that 634 Little Britain Road address.

MR. TORPEY: I'll second it.

ROLL CALL

MR. BEDETTI AYE
MR. TORPEY AYE
MR. DITTBRENNER AYE

MS. JULIAN: These are your next steps with the building department, tells you what you have to do next to contact them to get this all done.

MR. DITTBRENNER: No further business, motion to adjourn.

MR. BEDETTI: So moved.

MR. TORPEY: Second it.

ROLL CALL

MR. BEDETTI AYE
MR. TORPEY AYE
MR. DITTBRENNER AYE

RESPECTFULLY SUBMITTED BY:

FRANCES ROTH
STENOGRAPHER